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GOVERNOR

STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
MAINE FOREST SERVICE  
22 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0022

WALTER E. WHITCOMB  
COMMISSIONER

# PERMIT

## BRIDGE CONSTRUCTION PERMIT BCP 16025

The staff of the Maine Forest Service, after reviewing the application and supporting documents submitted by Clayton Lake Woodlands Holdings, LLC c/o Landvest Inc. for Bridge Construction Permit BCP 16025, finds the following facts:

1. Applicant: Clayton Lake Woodlands Holdings, LLC c/o Landvest Inc.  
P.O. Box 459  
Jackman, ME 04945
2. Date of Completed Application: July 19, 2016
3. Location of Proposal: T 11 R 13 WELS, Aroostook County
4. Zoning
  - a. (P-AL) Accessible Lake Protection Subdistrict
  - b. (P-GP) Great Pond Protection Subdistrict
  - c. (P-UA) Unusual Area Protection Subdistrict
  - d. (P-WL1) Wetland Protection Subdistrict
5. Waterbody: Allagash River
6. Approximate Time Period of Operation: August 7, 2017 – October 1, 2017  
or August 7, 2018 – October 1, 2018 if conditions do not allow construction in 2017.

### Proposal:

7. The applicant proposes to build a bridge on the Allagash River in T 11 R 13 WELS. The proposed project is to construct a bridge in the same location of an existing bridge where the current abutments are deteriorating and becoming unsafe. The new bridge will have a span of 128 feet and an overall width of 16 feet. The estimated clearance of the proposed bridge from the normal water flow will be 14 feet and at high water flow will be 7 feet. Clearing of existing vegetation during construction will be minimal due to the existing bridge on that site. The stream will be accessible for recreational activity (fishing and canoeing) during and after the construction process.
8. The proposed bridge project design and specifications are attached to application BCP 16025.
9. This bridge is being constructed to access commercial timberland of multiple landowners on a primary haul road that accesses Maine and Canadian timber markets.

### Review comments:

10. The Maine Department of Inland Fisheries and Wildlife reviewed the bridge construction project and there were no concerns expressed by the wildlife personnel. The fisheries biologist stated that the proposal is acceptable as long as construction activities are completed by October 1 to avoid any impacts on fish spawning areas.
11. The State Soil Scientist stated, "It makes sense to build the new bridge essentially in the same location as the existing bridge. The new abutments will be built above the water line and if not, then I suggest the use of coffer dams. If abutments are built above the waterline then some type of sediment barrier should be used in the event the water level rises due to heavy rains during construction. If silt fence is to be used below the high water mark, it should not have fabric trenched but weighed down by placing stone on it."  
  
"When the existing abutments are removed, including the extensions into the river channel, the exposed new river bottom may be soft soil with a lot of fines in it. If this is the case, erosion and sedimentation to the river can be minimized by slightly over excavating the soil and placing a layer of sand and then stone into the excavation."
12. The Maine Natural Areas Program reviewed the project, and according to their current information, there are no rare botanical features that will be disturbed within the project site.
13. The Land Use Planning Commission has reviewed and approved the project BCP 16025 stating "Based on the comments received by Clayton Lake Woodlands Holdings, LLC and comments by the Allagash Wilderness Waterway Superintendent, the bridge construction will have no adverse effect on existing use of the P-UA Subdistrict.  
**See Attachment A.**

### **Findings**

14. The bridge construction project will be conducted in conformance with the standards set forth in Section 5 of Maine Forest Service Chapter 27 Rule, Land Management Roads and Water Crossings of the Maine Forest Service Rules for Timber Harvesting and Timber Harvesting Related Activities within Unorganized and Deorganized Areas of the State.
15. The above finding is based on the representations contained in the Bridge Project Permit Application BCP 16025 and supporting documents.

Based upon the above findings, the MFS concludes that if carried out in compliance with the conditions below, the proposal will meet the Criteria for Approval, 12 M.R.S. § 685-A(1) of the Commission's Statutes, and Maine Forest Service Chapter 27 Rules.

**Therefore, the MFS staff approves the application of Clayton Lake Woodland Holdings, LLC c/o Landvest Inc. with the following conditions:**

1. Bridge reconstruction authorized in this permit can commence on the effective date of this permit and must be completed within the time outlined in Section 6 above.
2. All construction operations must be stopped where the continuation of such operations will cause or contribute to the occurrence of erosion or the sedimentation of surface waters, whether such occurrence is precipitated by exceptionally wet weather, the failure of water control measures, or other factors. Adequate steps must be taken immediately to stop any erosion or sedimentation of surface waters and to correct the situation that led to such occurrences. The applicant must implement Best Management Practices and erosion

control measures to prevent unreasonable sedimentation and protect water resources within the project area.

4. During the removal of the abutments, timber and rock, the use of silt fence and hay bales is required to prevent the discharge of sedimentation into the stream. All debris and fill material must be removed and properly disposed off-site.
5. The MFS Chapter 27 Rule, Standards for Timber Harvesting and Timber Harvesting Related Activities within Unorganized and Deorganized Areas of the State, is attached.
6. The period of operations shall be from August 7, 2017 to October 1, 2017 reserving the same time period 2018 if conditions do not allow construction in 2017.

This permit is approved only upon the above stated conditions and remains valid only if the permittee complies with all of these conditions. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Maine Forest Service review the decision.

If no person requests that the Maine Forest Service review the decision of staff within 30 days of the date of this staff decision, this permit becomes final agency action subject to review of the Maine Administrative Procedure Act. Pursuant to 5 M.R.S. §§ 11001 *et seq.*, a person aggrieved by an MFS permit decision may appeal the MFS's final action to Superior Court. As part of such an appeal, a person aggrieved may seek judicial review of the components of MFS's final action and permitting decision.

DONE AND DATED AT ASHLAND, MAINE THIS 4<sup>th</sup> Day of October, 2016.

By:



David Rochester LF #3168  
Regional Enforcement Coordinator  
Maine Forest Service  
45 Radar Road  
Ashland, Maine 04732

**Attachment A:**

# **Review and Approval MFSRA 9**

## **COMMISSION DETERMINATION IN THE MATTER OF**

Maine Forest Service  
regarding:  
Clayton Lake Woodlands Holdings, LLC c/o Landvest Inc.  
Review and Approval for Bridge Construction Permit  
In T11 R13 WELS, Aroostook County

### **Findings of Fact and Determination**

The Maine Land Use Planning Commission, after reviewing the bridge construction permit application submitted by Clayton Lake Woodlands Holdings, LLC to the Maine Forest Service on July 19, 2016, pursuant to the Commission's Land Use Standards, finds the following facts:

1. *Person Requesting Bridge Construction Permit:* Clayton Lake Woodlands Holdings, LLC.  
  
c/o Landvest, Inc.  
PO Box 459  
Jackman, ME 04945
2. *Accepted as Complete for Processing:* July 27, 2016
3. *Location of Proposal:* T11 R13 WELS, Aroostook County
4. *Current Zoning:* (P-AL) Accessible Lake Protection Subdistrict  
(P-GP) Great Pond Protection Subdistrict  
(P-UA) Unusual Area Protection Subdistrict  
(P-WL1) Wetland Protection Subdistrict
5. *Proposed project.* Reconstruction of 16 ft. by 96 ft. Bridge with concrete abutments

## **INTRODUCTION**

6. Public Law 2011, Chapter 599 (enacting LD 1739) shifted the regulatory authority for timber harvesting activities in protection and management subdistricts located in the unorganized areas from the Maine Land Use Planning Commission (the Commission or the LUPC) to the Maine Forest Service (MFS), effective March 3, 2013. When the Maine Forest Service issues a permit for a water crossing in the P-UA subdistrict, the LUPC must review and approve the project and ensure that it meets the Commission's Land Use Standards applicable to the Project as specified in 12 M.R.S.A. §8867-E, subsection 2-B, standards to protect outstanding river segments, historic, scenic, scientific, recreational and aesthetic resources in districts classified by the commission for special protection and delineation on land use maps adopted under section 685-A, subsection 7-A.

The following Findings and Conclusions constitute the Commission's review and approval that the Clayton Lake Woodlands Holdings LLC bridge construction project, as proposed, meets the Commission's applicable Land Use Standards.

## **PROPOSAL**

7. On July 19, 2016, Clayton Lake Woodlands Holdings, LLC, c/o Landvest Inc. submitted to the Maine Forest Service a bridge construction permit application. On July 27, 2016, the MFS sent a copy to the Maine Land Use Planning Commission requesting review.
  - A. The proposed project is to reconstruct the existing water crossing/bridge for the Realty Road over the Allagash Wilderness Waterway at the Umsaskis thoroughfare. The applicant proposes to remove the existing bridge, existing log abutments and all fill material from the causeway that is located above the water line. The new abutments would be set back even with the natural shoreline. The span of the bridge would be nearly doubled and the height would be increased approximately 1 foot. The applicant states that the approximately 50 year old bridge is showing signs of wear and the existing log abutments are in poor condition. The work is proposed to be done from August 7, to mid-September.
  - B. The proposed Project will be located within the following subdistricts: Accessible Lake Protection Subdistrict (P-AL), Great Pond Protection Subdistrict (P-GP), Unusual Area Protection Subdistrict (P-UA) and Wetland Protection Subdistrict (P-WL1).
  - C. The applicant has previously been issued Development Permit DP 3132 and Amendment B to Development Permit DP 3132 for maintenance and stabilization of the causeway and road approach to the bridge.

## **REVIEW AND APPROVAL BY THE COMMISSION**

8. On July 27, 2016, the MFS requested that the Commission review Clayton Lake Woodlands Holdings, LLC's application materials and provide comments to the MFS. As specified in law, the Commission's review and approval is limited to an evaluation of Land Use Standards applicable to this Project, standards to protect outstanding river segments, historic, scenic, scientific, recreational and aesthetic resources in districts classified by the

commission for special protection and delineated on land use maps adopted under 12 M.R.S.A. § 685-A, subsection 7-A (the P-UA district in the case of this Project).

9. The Commission's Land Use Standards that are relevant to reviewing and approving the proposed Project are evaluated in Findings #10, & #11.

10. *No undue adverse effect on existing uses.*

A. *Review Criteria.* Land Use Standard §10.24, C specifies that adequate provision must be made for fitting the proposal harmoniously into the existing natural environment in order to assure there will be no undue adverse effect on *existing uses, scenic character, and natural and historic resources* in the area likely to be affected by the proposal

B. *Effect on existing uses.* The purpose of the P-UA subdistrict (the subdistrict in which the project is proposed) is to protect areas of significant natural, recreational, historic, scenic, scientific or aesthetic value which are susceptible to significant degradation by man's activities, and for which protection cannot adequately be accomplished by inclusion in any of the other subdistricts. For this project, the purpose of the P-UA is to protect the Allagash Wilderness Waterway (AWW), which is designated as a Wild and Scenic River and is a high value recreational resource of national significance.

The applicant proposes to conduct the bridge construction project from August 7 through mid-September, during a period of low water and at the end of peak recreational use on the AWW. The applicant states that the removal of the existing bridge and the construction of the new bridge will be carefully planned and executed to ensure the project is completed as quickly as possible. In addition, a watchman would be posted in a canoe upstream of the project while the girders are being placed to alert workers of oncoming boaters and ensure that boaters can safely cross under the bridge. The Superintendent of the AWW commented that the August 7 start date "will allow the spring fishing use and most of the summer canoe visitors to not be impacted by the construction of a new bridge". In addition, he states that the AWW may be able to help by limiting the water flow from Churchill Dam a few days before the old bridge abutments are removed.

C. *Effect on scenic character.* According to information provided by Clayton Lake Woodlands Holdings, LLC the new bridge will be designed based on input from the Superintendent of the AWW. The abutments will be pre-cast off site and the concrete will be tinted a dark brown color. The steel beams will be allowed to weather naturally, which will keep the look and feel of the original bridge. Approximately 400 sq. ft. of shrub/grass vegetative cover will be removed as the result of increasing the span length.

D. *Effect on natural resources.* Clayton Lake Woodlands Holdings, LLC states that all work will be done above the existing water level under dry conditions and proposes to implement Best Management Practices (BMPs) in order to protect the water quality.

E. *Conclusions.* Based on the information supplied by Clayton Lake Woodlands Holdings, LLC and comments by the AWW Superintendent, the bridge construction project will not have an adverse effect on existing uses in the P-UA Subdistrict.

Based on the proposed bridge design, and plan for construction, the project will not have an adverse effect on the scenic character or natural resources in the P-UA Subdistrict.

11. *No adverse effects on Protected Resources in the P-UA.*

- A. *Review Criteria.* Land Use Standard § 10.23,e,(4) specifies that “Water Crossings for Land Management Roads require review and approval by the Commission...”, and that “In instances where review and approval by the Commission are required, the Commission will consider all applicable requirements set forth in Sub-Chapter III, except for any criteria that are duplicative of criteria considered by another state agency, and the Commission will consider whether the activity will adversely affect the resources protected by the P-UA.”
- B. *Effect on protected resources in the Unique Area Protection Subdistrict (P-UA).* The purpose of the P-UA Subdistrict is to protect the recreational resources of this section of the Allagash River. The AWW is stewarded by a state agency charged with the protection and management of the Allagash River as a natural and recreational resource. The Superintendent of the AWW contributed comments indicating how the project may be constructed so as to minimize potential impacts to recreational resources within the P-UA.
- C. *Conclusions.* Based on the comments contributed by the AWW, the bridge construction project will not have an adverse effect on protected resources in the Unique Area Protection Subdistrict.

## **FINAL CONCLUSION**

Based on the findings set forth above, and in addition to the conclusions set forth above, the Commission concludes that, with respect to the Clayton Lake Woodlands Holdings, LLC forest operations proposal, Clayton Lake Woodlands Holdings, LLC has met its burden of demonstrating that the Project: conforms with the applicable regulatory and statutory requirements and plans adopted pursuant to 12 M.R.S.A., Chapter 206-A; meets the Commission’s Land Use Standards applicable to the Project as specified in 12 M.R.S.A. §8867-E, subsection 2-B, standards to protect outstanding river segments, historic, scenic, scientific, recreational and aesthetic resources in districts classified by the commission for special protection and delineated on land use maps adopted under section 12 M.R.S.A. § 685-A, subsection 7-A; and meets the Commission’s Land Use Standards applicable to the project as specified in Chapter 10, Sub-Chapter II of the Commission’s rules.

Therefore, the Commission APPROVES that the project proposal submitted by Clayton Lake Woodlands Holdings, LLC for the bridge construction project in T11 R13 WELS, as proposed, complies with the relevant provisions of the Commission’s Land Use Standards, subject to the findings of fact and conclusions contained herein.

This review and approval is based upon the proposal as set forth in the application and supporting documents and remains valid only if the project proceeds as proposed. Any material variation from the application is subject to prior Commission review and approval. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

This approval, issued to the Maine Forest Service, is not final agency action. Pursuant to 5 M.R.S.A. §§ 11001 *et seq.*, a person aggrieved by a MFS permit decision containing this review and approval determination may appeal the MFS's final agency action to Superior Court. As part of such an appeal, a person aggrieved may seek judicial review of the components of the MFS's final agency action, including the Commission's review and approval determination that is incorporated into the MFS's permitting decision.

DONE AND DATED AT ASHLAND, MAINE THIS 21<sup>ST</sup> DAY OF SEPTEMBER, 2016.

By: Billie J. MagLeam  
for Nicholas Livesay, Executive Director